IN THE

United States Supreme Court,

IN EQUITY.

CARNEGIE STEEL CO., Petitioner,
vs.
CAMBRIA IRON CO., Respondent.

No. 17 October Term, 1901.

Respondent's Memorandum of Errors in Petitioner's Supplemental Brief.

Bottom of page 3. The term "large quantity of molten metal" quoted from patent p. 874, line 2, refers to total holding capacity of the vessel, not to the amount of the remainder, which is nowhere characterized by any more definite expression than "a considerable quantity", "a body", (p. 873, ls, 6 & 8).

Page 5. The file wrapper of Jones application is referred to as showing that he used the words "further treatment" in his claim with exclusive reference to refining. He did nothing of the kind. In his amended claim of February 16, 1889, he used the words "for subsequent treatment" (p. 726), and in the argument accompanying it he stated that the mixed metal could be "used for casting" (p, 727). The patent as granted shows that he expressly included in the words "further treatment" casting into pigs for use in puddling furnaces or

other uses to which pig iron may be put in the art. (See Respondent's brief, pp. 64-8).

Page 6. States that Deighton could only have been used by substantially draining after each batch.

The contrary is shown in the evidence referred to in respondent's brief, pp. 200-204.

Page 7. States that the Snelus method involved alternate charging and emptying.

Petitioner refers only to one Snelus method. The one we rely upon is on pages 757 and 789. He describes the continuous method of the American Bessemer Ladle, and recommends it for blast furnace metal. He also refers (foot of p. 789) to the building of a thirty ton ladle to hold the metal "in readiness so that at a "moment's notice you could take your iron into the converter and "also get a better mixture." (See Respondent's brief, pp. 147-8).

Page 9. States that both remedies of Holley publication are fill and empty plans.

But Holley contrasts with the fill and empty system, in which "the metal will be drawn out before it chills," the second system;—to store the metal in the heated tank (p. 833,) In this they were to:—store and keep hot some 60 tons of metal,—tap out the metal *as required*,—stop the tap hole with 50 tons of fluid behind it,—and make the ferrostatic pressure small by keeping (*i. e.*, maintaining) the bath shallow (p. 842). His recommendations are the storage of a large quantity of iron in a reverberatory furnace or *other* reservoir, —tipping instead of tapping,—and "small amount of flame spread over a large surface of metal" (pp. 845-6). (See Respondent's brief, pp. 144-50).

Jones' patent (p. 874, l. 12) recommends burning gas in the vessel to keep up the heat, and defendant keeps a constant flame burning inside its vessel (p. 409, Qs. 121-122). Both have followed Holley's advice. The amount of extraneous heat or flame necessary

to maintain the fluidity of the metal has proved to be very small, and no injurious effect upon the metal has developed from its use.

Page 11. The statement as to Whitney implies that the vessel was filled and promptly emptied—"got rid of it as quickly as possible."

The fact is that it was kept continuously well filled up by additions during the whole time the cupolas were melting. (See Whitney, Q. 6, p. 116; Q. 9, p. 117; Q. 14, p. 118.)

Page 11. States that each tapping was "6000 pounds, a large part of the entire capacity of the ladle."

Whitney states (A. 44, p. 121) that each tap was 500 to 600 pounds;—this making 1500 to 1800 pounds charged from three furnaces at one tapping into the ladle usually carrying 10 to 15 tons (A. 13, p. 118)—that is, 20,000 to 30,000 pounds. (See Respondent's Brief, p. 166).

Page 13. The assertion that the presence of a residue in the Bessemer accumulating ladle was "pure accident" is contrary to the evidence, including that of Hunt. (See Hunt, Qs. 10 to 16, pp. 291-2, and evidence cited in our brief, pp. 184 to 189.)

Page 14. The conditions of actual use of respondent's big reservoir are not correctly stated. For the facts showing that the residue is regulated *solely* by supply and demand, see Respondent's Brief, pp. 105-108.

Aside from the question of fact, we wish to note that petitioner's argument is to the startling result that the maintenance of a residue is incompatible with reservoiring.

Respectfully,

JAMES I. KAY,
PHILIP T. DODGE,
FRANCIS T. CHAMBERS,
For Respondent.